R. J. REYNOLDS TOBACCO USA
CIGARETTE CARTON MERCHANDISER
ELECTRONIC SECURITY SYSTEM
LEASE AND LICENSE AGREEMENT

AGREEMENT made and entered into effective the 1 day of June, 198 9, and between R.J. REYNOLDS TOBACCO USA, a division of R.J. Reynolds Tobacco Company, a New Jersey corporation (hereinafter referred to as "RJR") and Waldbaum's Foodmart (hereinafter referred to as "Retailer").

1. Lease and License

1.1 RJR agrees to lease and install on identified Cigarette Carton Merchandiser(s) the Cigarette Carton Merchandiser Electronic Security System(s), (hereinafter individually and collectively called "Security System(s)"), which are identified by serial number(s) in the Appendix A hereto, which is hereby incorporated herein by reference. Title to the Security System(s) shall remain in RJR. RJR hereby grants to Retailer a non-assignable, non-transferable license under Pending U.S. Patent Application for "Anti-Theft Product Rack and Method" for the use of the Security System(s) as provided in Section 1.2 herein.

1.2 Retailer is hereby licensed under, Pending United States Patent Application for "Anti-Theft Product Rack and Method" to use those shelves of the Security system(s) below the top two for the display of cigarette cartons, and to use the top two shelves of the Security System(s) for the display of RJR cigarette cartons only. Retailer is not required to purchase or to display any RJR products whatsoever in order to participate in this lease and license agreement, but the top two shelves of the Security System(s) are licensed under Pending United States Patent Application only for use for the display of RJR cigarette cartons. If RJR cigarette cartons are not displayed on the top two shelves, the top two shelves cannot be merchandised with, or contain any other products under this license, but the remainder of the shelves below the top are still licensed and may still be used for the display of cigarette cartons. (In operating areas where RJR's share of the market is less than 30%, RJR is willing to license a portion of the top two shelves for the display of non-RJR cigarette cartons, the minimum percentage of rows licensed only for the display of RJR cigarette cartons shall be not less than RJR's share of market for the operating area, and in no instance will more than 75% of the total rows available be licensed for the display of non-RJR cigarette cartons.)

2. [redacted]

2.1 [redacted]

2.2 [redacted]

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3. Scope of Lease and License

3.1 The lease and license granted under the Agreement by RJR to Retailer shall extend only to Retailer's use of the Security System(s) as installed by RJR.

Source: https://www.industrydocuments.ucsf.edu/docs/kmpn0000

4. Repair of Security System(s)

4.1 For the first three years of this license, RJR will repair the Security System(s) upon request of the Retailer (excluding batteries). If, within this three year period, in the sole judgment of RJR, repair is not practical, RJR will replace the Security System(s) at no charge. Except as set forth below, RJR will absorb the costs of labor and parts associated with such repair or replacement. After the first three years of this license, any repairs shall be at the expense of the Retailer.

4.2 The obligation set forth in Section 5.1 to repair or replace at RJR's cost shall not extend to repairs or replacements resulting from accidents, misuse or unauthorized alterations to Security System(s) or Cigarette Carton Merchandisers(s). The cost for labor and materials associated with such repairs or replacement shall be at Retailer's expense. ALL WARRANTIES EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.

4.3 For repairs which are to be at Retailer's expense, but are performed by RJR at Retailer's request, Retailer may elect on Appendix A to have the cost of those repairs deducted from any self-service carton contract payments which may be payable to Retailer. If Retailer does not so elect, charges for repairs by RJR at Retailer's request are payable 30 days after repair.

5. Term

5.1 The term of the license granted under Section 1 shall be one (1) year from the effective date of this Agreement and thereafter shall continue from year to year but subject to the following:

.1 [illegible]

.2 RJR may terminate the lease and license (a) at any time in the event (i) that Retailer uses the Security System(s) outside the scope of the license set forth in Section 1, (ii) of any unauthorized modification or tampering with the Security System(s) by Retailer, (iii) if Retailer violates any provision of this Agreement, or (iv) in the event that RJR terminates this Security System Program in its entirety, upon thirty (30) days written notice to Retailer, or (b) after first year of this Agreement at any time upon thirty (30) days written notice to retailer.

5.2 Upon termination of the lease and license as to any Security System(s), RJR may enter upon Retailer's premises at any time during Retailers's normal business operating hours and remove such Security System(s).

6. Limitation of Liability

6.1 RJR shall in no event be liable for any loss or damage arising from any cause beyond RJR's control. In no event shall RJR be liable for any special, incidental or consequential damages suffered by Retailer including, but not limited to, loss of profits or other economic loss, loss of use, or other similar damage arising out of any claimed breach of obligations hereunder or negligence. Retailer hereby agrees to indemnify, defend and hold harmless from and against any and all claims, demands, damages and costs arising out of this agreement and Retailer's use of the Security System(s) and Cigarette Carton Merchandisers which are not occasioned by the sole negligence of RJR.

Source: https://www.industrydocuments.ucsf.edu/docs/kmpn0000

7. Assignment

The lease and license granted to Retailer hereunder shall be used for the exclusive benefit of Retailer. Retailer shall not assign, transfer or sub-license this agreement, or any rights hereunder, in whole or in part, without RJR's prior written consent.

Retailer hereby represents that the person signing this Agreement on behalf of the Retailer is duly authorized to bind Retailer.

R.J. REYNOLDS TOBACCO USA,
A Division of
R.J. Reynolds Tobacco Company

By: G.P. Buchas

G.P. Buchas

Title: Division Manager
Field Sales
(or whichever Manager from the Sales Department will be signing this on behalf of RJRT USA)

Retailer: Waldbaum's Foodmart

Sales Information System Account No.: 514010

By: Daniel Lescoe

Dan Lescoe

Title: V.P. Sales & Marketing

Date: _____

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